

August 16, 2005

City of Sunnyvale, California
Planning Commission
Attention: Mr. Ryan Kuchenig
Assistant Planner
Mr. Steve Sukke
City Arborist
P.O. Box 3707
Sunnyvale, CA 94088-3707

City of Sunnyvale-

This letter is in reference to the request for tree removal permit (permit request number 154) dated 7/20/05 and the subsequent denial of request dated 8/8/05. This letter also is requesting a hearing of appeal to the Planning Commission to reverse the decision recommended by the City of Sunnyvale Arborist and the decision of denial provided by the City of Sunnyvale.

Included with this letter are the following:

- A. An appeal check, payable to the City of Sunnyvale, in the amount of \$110.
- B. A copy of tree removal denial request letter dated 8/8/05.
- C. A copy of the on-line tree removal permit request, dated 7/20/05.
- D. Petition signatures from perimeter residents of Matthew & Sara Tavlin, 1115 Polk Avenue in Sunnyvale, CA. We have asked our perimeter neighbors on Polk Avenue to sign the petition agreeing to the tree's removal from our backyard.
- E. Three (3) independent arborist appraisals for the cost of tree removal.
- F. Statement of Work (SOW) contract from Systems Paving to appraise the cost of installing a planter box
- G. A series of six (6) pictures taken of the backyard of 1115 Polk Avenue, highlighting the tree in question. Pictures were taken on Monday evening, August 15th, 2005 and represent the identical surroundings during Steve Sukke's inspection of the property and tree in question.

Statement of Appeal

According to the letter of denial from the City of Sunnyvale, it is stated that in order to grant a tree removal permit, at least one of the following findings is necessary:

1. The tree is not healthy;

2. It represents a potential hazard; or
3. It restricts the use of your property or your neighbor's use of their property.

The decision to deny the tree to be removed was made as a result of the City of Sunnyvale's Arborist examination of the subject tree, and the inability to identify any of the necessary findings as stated above.

As residents of the City of Sunnyvale at 1115 Polk Avenue, we were surprised to receive a notification of denial, as we believe that the following create the necessary cause for the subject tree to be removed:

1. It represents a potential hazard to the residents of 1115 Polk Avenue and surrounding residents;
2. It restricts the use of our property;
3. The cost to remove the tree is as cost effective as building a planter box to match the patio installed by the homeowners, while the recommended inclusion of a terraced planter box does not provide the necessary stability to the subject tree; and
4. The subject tree is providing habitat to mice and rats, creating a nuisance to us and our adjacent residents, while causing concern on the subject of public health

Potential Hazard

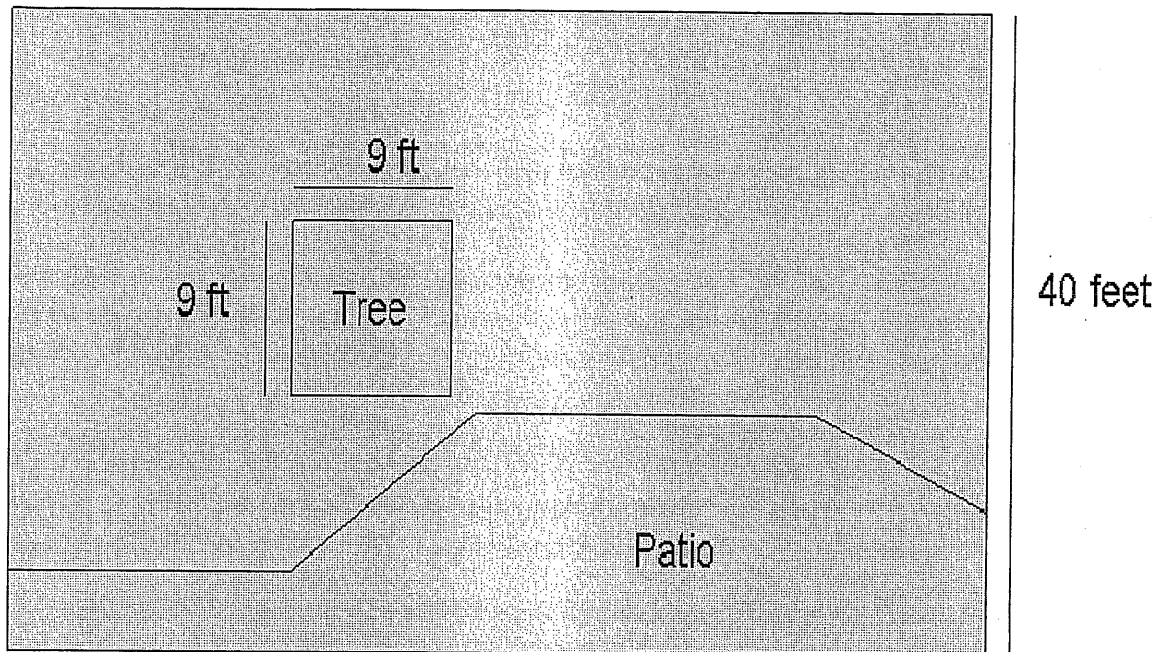
During the inspection of the subject tree, Matthew Tavlin spoke with Sunnyvale City Arborist Steve Sukke regarding the concern of the subject tree's stability, as the tree was planted in a planter box surrounded – and being supported by – loose rock and dirt. As can be identified in the pictures provided, the tree is predominantly supported by rock and dirt, as the tree's root ball sits approximately four feet above the ground.

As residents of the property, we are concerned that the tree's stability needs to be questioned. A tree of this size needs to have the support of solid ground and soil, and in its present state (where the root ball sits a little over 4' above ground) it simply does not have the appropriate support of its weight or height. At approximately 42' in height, a tree of this size and species should have a root ball approximately the identical size as the crown of the tree, which is approximately 5' in height. We are concerned – as are the neighbors who have signed a petition – that such lack of stability caused by having over 80% of the root ball above the ground creates a hazard to the residents of the property to which the tree resides, as well as the residents of adjacent properties.

Property Restriction

As identified in the provided pictures, the residential backyard is approximately 60 feet by 40 feet. The subject tree takes up a large proportion of the residential backyard space, and the graphic shown below provides an approximation of the subject tree's location in the backyard:

60 feet



We have made a significant investment in our property's backyard with the addition of a stone paver patio, and are planning to include landscaping around the perimeter of the backyard – including new trees, bushes and flowers to coincide with the subject tree's removal – to make the backyard a more pleasant environment to spend time in and entertain friends and guests. The subject tree – in its current location – blocks the ability to have the full use of the backyard lawn, presents a hazard to those in the backyard with its loose rock and dirt support foundation, and hinders the ability for the residents of the property to enjoy the backyard. We also are concerned that the subject tree's present state, location and question of stability may cause a devaluation of the overall property's value in the event the residence is sold, should it continue to occupy a significant portion of the backyard.

Tree removal

In the letter providing denial to the subject tree's removal, a recommendation provided by City Arborist Steve Sukke states that "the existing wood planter could be replaced with a terraced planter to add dimension to the landscaping of the yard." Mr. Sukke also provided a verbal recommendation that the subject tree's root ball could be cut back to reduce the space the subject tree occupies in the backyard.

As noted, attached with the letter are copies of three (3) independent arborist appraisals for the cost of tree removal. During the conversation with each arborist we inquired whether the cutting back of roots on the subject tree was a viable option, and each provided an opinion that cutting the subject tree's root ball would not only make the tree unhealthy, but it would create an even greater potential hazard to the subject tree's stability. We requested – and received – these removal estimates as a way of deciding

whether the option of the tree removal was cost effective based on Mr. Sukke's recommendation of including a terraced planter box. Please note that the cost of removing the subject tree ranges from \$2,200 to \$3,680.50.

As stated above, we have made a significant investment by building a stone paver patio in the backyard. To accommodate Mr. Sukke's recommendation of building a "terraced planter" in the backyard, we inquired with the installers of the patio – Systems Paving – of the cost associated with building a terraced planter box. A copy of this Statement of Work (SOW) is included within this letter. We inquired with Systems Paving to install a terraced planter box as we wanted such a planter box to be similar in dimension, build, and quality as the patio they had built for us.

The recommended cost to build such a terraced planter box is \$3,230, and with a 20% discount the total cost would be \$2,590 (the 20% discount has expired as the work needed to be completed in its entirety to reap the benefits of the discount). This quote is based on a 10' diameter circular planter box, which, upon inspection by the Systems Paver's project manager, was determined to be inadequate in size. When compared with the cost associated with the tree's removal, the cost of building a terraced planter box is cost prohibitive when placed side-by-side with the option of removing the tree. In addition, the planter box:

- Would need to be built roughly 12' by 12' feet, further limiting the resident's use of the backyard lawn; and
- Would not provide any additional support regarding the tree's stability – the root ball on the subject tree would continue to occupy its current space and its stability would continue to be questioned by the property's residents, surrounding residents, and future residents.

Rodent habitat

Since moving into the residence in April 2005, we have noticed a continued presence of mice and rats in our backyard and house crawl space. During our conversation with the three independent arborists, we inquired as to whether the subject tree's presence in the backyard was creating a residence for the rodents. Each arborist affirmed that such a tree is a habitat for such rodents, as well as squirrels, birds, and other small animals. The concern for rodents was brought to the attention of Mr. Sukke during his visit to the property, yet a statement of opinion was not provided in the letter of denial.

In addition, two of the individuals that have signed the petition have contacted the Vector Control board of Santa Clara County, CA to voice their concern of mice and rodents in their backyard. As residents of Santa Clara County we have been advised to provide our statements of concern to the Board should matters such as be an issue in our neighborhoods. We are concerned that the rodents will continue to have a viable habitat in our backyard – and in our neighbor's yards – with the presence of the subject tree in its current location.

Summary

First, we want to thank you for the opportunity to appeal this decision to the City of Sunnyvale Planning Commission. We appreciate your review of this appeal.

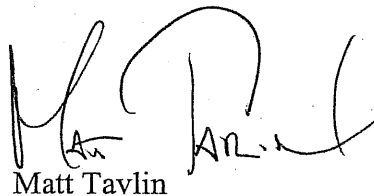
As stated above, we believe strongly in the removal of the subject tree. The aforementioned topics provide a clear concern of the subject tree, and by questioning the tree's current stability and presence of its root ball above ground as a potential hazard, the inability to have full use of the residential backyard, the cost considerations to remove the tree versus developing a terraced planter box without providing additional stability to the tree while furthering restricting the use of the resident backyard, and the concern for rodent habitat in our backyard as those of our adjacent neighbors, we are hopeful that the Planning Commission will take into consideration these concerns and overturn the decision of denial.

Again, we thank you for your time and consideration and look forward to taking the next step in the appeal process. By the request of our residents who have signed the petition, please feel free to contact them should you question the validity of their signatures to the subject of this letter.

Should you have any questions please feel free to contact us at 408-481-0661.

Sincerely,


Sara Tavlin


Matt Tavlin

1114 POLK AVE
SUNNYVALE
CA 94086

1121 Polk Ave
Sunnyvale CA 94086

8/15/05

1120 Polk Ave
Sunnyvale, CA 94086

8/15/05

1112 Polk Ave
Sunnyvale

8-15-05
1 1 1
C

1111 Polk Ave
Sunnyvale CA 94086

8-15-05

ENEBRO



Tree Care

Jose Godinez

(650) 368-1689

Cel. (650) 218-5069

P.O. Box 931

Redwood City, CA 94064

24 Hour
Emergency Service
Free Estimates

ATTACHMENT E
Page 7 of 10

DATE: 8/12/05

ORDER: _____

DESCRIPTIONS:

Remove one large palm
on the Back Yard, & Holling
Downy & Remove the stump, &
Holling the stump Downy

2200⁰⁰

FIXED PRICE

CUSTOMER AUTHORIZATION

DATE: 8/12/05

NAME: _____

ADDRESS: 1115 Polk Ave

SUNNYVALE CA 94086

TELEPHONE: 650.380.9087

PAYMENT IS DUE UPON COMPLETION



IAN GEDDES

ATTACHMENT E
Page 8 of 10

"A licensed tree care corporation"

PROFESSIONAL ARBORICULTURE

P.O. Box 2962 • Saratoga, California 95070 • (408) 374-8233 • Fax: (408) 374-8262
Contractors State Lic. # 629705
www.iangeddestreecare.com

DOCUMENT TYPE : QUOTATION

CODE :

NAME		LOCATION	<u>REAR YARD</u>
ADDRESS	<u>1113 YORK AVE.</u>	JOB ADD	<u>SAME</u>
CITY	<u>SUNNYVALE</u>	JOB CITY	
ST/ZIP	<u>CA 94086</u>	ST. ZIP	
ATTN.		CROSS ST.	<u>LEOTA AVE</u>
PHONE		CONTACT	<u>SAME</u>

WORK DETAIL

DATE : 8.4.05
DETAIL :

TERMS : C.O.D.
COST :

REMOVE DATE PALM TO NEAR GROUND LEVEL \$ 2,600.00
GRIND STUMP + HAUL GRINDINGS \$ 800.00

JAMES SCOTT-KREBS
#370.2089

Worker's Compensation
Insurance Surcharge
ADD 8.25%

\$ 280.50

DISPOSAL \$
TOTAL \$ 3,680.50

CLEAN-UP DETAIL

BRUSH DISPOSAL : YES
LEAVE WOODCHIPS : NO
CUT & LEAVE WOOD : NO
HAUL WOOD : YES
HAUL STUMP GRINDINGS : YES

CREW NOTES : STUMP GRINDER
EMPTY CHIP TRUCK
OTHER : 4 X MAN CREW MINIMUM

MAP # 7.20.74

START :

SUBMITTED : Simon

DISCLAIMER

See over for Terms & Conditions

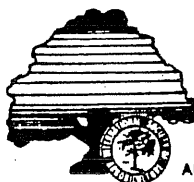
For your protection, please rest assured that all our contract work is covered by Property Damage, Public Liability and Worker's Compensation insurance. Proof of coverage is available upon request. We shall endeavor to provide you with safe and professional service. Estimates are valid for a period of 60 days. Please refer to the Terms & Conditions on the reverse side of this form.

Upon Completion: I am satisfied that the above detailed work has been completed as specified.

ACCEPTANCE :
P.O. # :
FOREMAN :
COMP. DATE :
AMOUNT PD :
CHECK # :
EMH :

WHEN :
AMH :

We are proud members of the following professional organizations



Society
of
COMMERCIAL
ARBORICULTURE



National Arborist Association



Anderson's Tree Care

SPECIALISTS
Certified ARBORIST #1061



MEMBER NATIONAL
ARBORIST
ASSOCIATION

P.O. Box 2B • San Jose, CA 95109-0002
Tel: (408) 226-TREE (8733) • Fax: (408) 998-9955 • Lic. # 705171

See us at www.andersonstrecare.com

Page 9 of 10

ATTACHMENT E

Name: Mr. Hoffman Job #: 81207 Date: 8-5-05
Address: 1115 Park Ave. City: San Jose 94086
Tree Location: BACKYARD Hm. Phone (650) 380-8806
Wk. Phone () _____

Special Instructions: GET PERMIT. WORK WILL DAMAGE LAWN.

We will furnish men and equipment necessary to complete the following work:

Yes No

Brush Disposal ☒ 1) "PALM" (BACKYARD) REMOVE TO 3 INCHES ABOVE RISE.

Split Firewood _____ LOST \$2,400

Fireplace Length _____

Random Length _____ 2) GRIND STUMP AND RAISED AREA TO LAWN LEVEL.

Dispose ☒ LOST \$420

Grind Stumps ☒ 3) HAUL THE REMAINING FROM WORK

Clean-up Grinding ☒ ITEM 2.

Time & Materials ☒ LOST \$420

Contract ☒

\$ _____

Due Date: _____ HAUL THE RAISED, TRUNK SECTIONS AND DEBRIS FROM THE WORK.

BOB HOFFMANN

Owner accepts responsibility for all required permits & third-party permission necessary to complete above described work. We are not responsible for damage to any non-visible or subterranean installations. All work payable upon completion unless specified above.

Owner _____ Date _____

Job Completion Release

I acknowledge that the above-described work has been performed to my complete satisfaction.

Signed _____ Completion Date _____ Check # _____

Name _____ Social Security # _____
Telephone (Res) 408-481-0661 (Bus) _____ (Cell) 650-380-9087
Address 1115 Polk Ave City San Jose State CA Zip 94086
Email Address _____

I/We, the undersigned whose particulars are set out above, are the owners of the premises described below, hereinafter referred to as "Purchaser," offer to contract with Systems Paving, Inc., a California corporation, hereinafter referred to as "Contractor," to furnish, to deliver and arrange for installation of all materials necessary

to improve the premises located at: Same
(Street) (City) (State) (Zip)

according to the following specifications:

PAVER DESIRED: ☐ Ant Kob ☐ Holland ☐ Castle Kob ☐ Symetry ☐ Other Cable Stone

COLOR DESIRED: _____

LAYING PATTERN: ☐ Random ☐ Runner ☐ Herringbone ☐ Other _____

COLOR DESIRED: _____

TYPE OF CONSTRUCTION: ☐ New ☐ Replacement of Existing

EDGE RESTRAINT TO BE USED: ☐ Concrete Bond Beam ☐ Other _____

SCOPE OF WORK:

A. Area PATIO 20% Discount Good thru Sandy

B. Supply and install pavers including:

☒ Excavation and disposal of Existing Soil Down 6 1/2" 7/03/05

☒ Base Preparation consisting of class II Base Rock #3"

☒ Bedding Sand (Approx. 1") ☒ Cleanup and disposal of debris

☒ Paver as specified above ☒ Area to be as per attached and initialed drawing

☒ Other _____

Lifetime Guarantee on Pavers against breaking + cracking
Two Year Warranty on labor installation

APPROXIMATE DATES OF COMMENCEMENT AND COMPLETION OF WORK:

Approximate Commencement Date _____ Approximate Completion Date _____

The CASH PRICE for all Labor & Material is \$ _____ which includes all applicable taxes.

PAYMENT: ☐ Cash ☐ Credit Card _____ /# _____ Exp. _____

Code _____ Name that appears on card Steps 18" wide - Door From

☐ Address above is also billing address, if other To Door From

☐ Finance (Subject to approval) \$600.00 Concrete Wood Deck Removal

If this is a cash transaction, the purchase price shall be paid in accordance with the following payment schedule:

Cash Down Payment Upon Signature \$ 8750.00 Patio Pavers (1750) = 7000.00

On Day of First Delivery of Any Portions of Paving Stones or Material \$ 2950 Build steps - Bullnose @ 590 = 2360

Balance Payable Upon Completion \$ 2800 + 430 (Sitting Area around Tree) = 3230

TERMS AND CONDITIONS: The terms and conditions on the reverse side are expressly incorporated into this contract.

Contractors are required by law to be licensed and regulated by the Contractors' State License Board. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, California 95826.

THIS MESSAGE APPLIES TO HOME SOLICITATION SALES ONLY: You, the Purchaser(s), may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction.

Systems Paving, Inc., a California Corporation

Signature affixed below also acts as receipt that Purchaser(s) received separate cancellation forms.

SIGNED [Signature] 7/1/05
Salesperson Date

SIGNED _____
Purchaser Date

REGISTRATION # _____

ACCEPTED BY _____
Contractor's Authorized Signature Date

SIGNED _____
Purchaser Date

THIS CONTRACT SHALL NOT BECOME EFFECTIVE OR BINDING ON CONTRACTOR UNTIL IT HAS BEEN SIGNED BY CONTRACTOR AND PURCHASER.

CORPORATE
1600 Dove Street
Suite 250
Newport Beach, CA 92660
Tel. (800) 801-7283
Fax: (949) 263-0452

NEWPORT BEACH
1600 Dove Street
Suite 111
Newport Beach, CA 92660
Tel. (866) 728-3954
Fax: (949) 263-8318

NORTHERN CALIFORNIA
32980 Alvarado-Niles Road
Suite 810
Union City, CA 94587
Tel. (866) 728-3957
Fax: (510) 401-5315

SAN DIEGO
7925 Silverton Avenue
Suite 501
San Diego, CA 92126
Tel. (858) 547-4277
Fax: (858) 547-4279

VENTURA
1695 Mesa Verde Avenue
Suite 250
Ventura, CA 93003
Tel. (877) 772-8464
Fax: (805) 654-1598